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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

19 CR 833 (SHS)

5 MATTIE CIRILO,

6 Defendant.

Sentence

7
8 New York, N.Y.
June 29, 2021
9 4:20 p.m.

10 Before:

11 HON. SIDNEY H. STEIN,

12 District Judge

13 APPEARANCES

14 AUDREY STRAUSS

15 United States Attorney for the
Southern District of New York

16 BY: KIERSTEN FLETCHER

Assistant United States Attorney

17 COHEN FRANKEL & RUGGIERO, LLP

18 Attorneys for Defendant

19 BY: MARK I. COHEN

20 Also Present:

21 Gillian M. Feehan

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(Case called)

MS. FLETCHER: Good afternoon, your Honor, Kiersten Fletcher for the government.

THE COURT: Good afternoon.

MR. COHEN: Good afternoon, your Honor, Mark Cohen and Gillian Feehan, with the Court's permission, on behalf of Ms. Cirilo, who is on my behalf. Ms. Feehan is admitted attorney in New Jersey, and she submitted her application during the pandemic for admission into this court. She was vital in the handling of the case. She is not yet admitted. If it's OK with the Court, I would like her to join us at counsel table.

THE COURT: Of course. Welcome to all of you.

Please be seated in the courtroom.

I understand that you've told those in the well -- I have informed my deputy that you're all vaccinated, is that correct?

MR. COHEN: I am, sir.

THE COURT: Except for the defendant.

I'm told by my deputy that the revised protocols, these COVID protocols change all the time, that the new protocols that just went into effect permit those in the well to take their masks off if everyone is vaccinated and, apparently, my deputy informs me that if somebody is not, as long as that person keeps his or her mask on, we can do it this

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1 way. We will proceed and my deputy tells me that you have all
2 given her the necessary contact information. I do try to
3 follow the Court's protocol guidelines since they have been
4 adopted by the board of judges.

5 We are here for the sentencing of Ms. Cirilo. The
6 information I have is the presentence report prepared on April
7 1 of this year and revised on April 30, along with the addendum
8 to the presentence report and the sentencing recommendation of
9 365 days' incarceration. That's a variance from the guideline
10 range that the probation department is recommending of 57 to 71
11 months on an offense level of 25 and criminal history category
12 of I.

13 In addition to the PSR, that is the presentence
14 report, I have the defense submission, dated June 15, with the
15 attached letters, and the defense submission requests a
16 sentence of time served with three years' supervised release
17 or, in the alternative, time served with three years'
18 supervised release and a special condition of 12 months' home
19 confinement. I also have the government letter, dated June 22,
20 which unusually recommends a sentence below the stipulated
21 guideline range as sufficient but not greater than necessary in
22 this case.

23 Last, I received yesterday, I believe, I received the
24 e-mail that came to chambers, dated June 24, 2021, it's
25 addressed to Ms. Cirilo, offering her the position of real

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1 estate assistant, starting June 28. Looks like it's for
2 Compass Real Estate.

3 Is there any additional information I should have,
4 government?

5 MS. FLETCHER: Not from the government, your Honor.
6 Thank you.

7 THE COURT: Is there any additional information I
8 should have, defense?

9 MR. COHEN: No, sir.

10 THE COURT: Mr. Cohen, have you had a full opportunity
11 to read and discuss all this information with your client and
12 have you in fact read and discussed it with her?

13 MR. COHEN: Yes, sir.

14 THE COURT: Do either you or your client have any
15 objections to the findings of fact in the presentence report?

16 MR. COHEN: Findings of fact, no, sir.

17 THE COURT: Ms. Fletcher.

18 MS. FLETCHER: Not with respect to findings of fact,
19 no.

20 THE COURT: I hereby adopt the findings of fact in the
21 presentence report.

22 Let me ask Ms. Fletcher to begin with, in the view --
23 first of all, Ms. Fletcher, I think this is the first
24 sentencing in what I'll call the Cheedi conspiracy, very
25 similar to the Ketabchi conspiracy. If you'll remember, in the

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1 Ketabchi conspiracy, I asked that the government provide me and
2 all the parties with its view of the relative ranking of
3 wrongdoing of the defendants, and the government chose to view
4 it as tiers, if you remember that.

5 What I would appreciate is the government submitting a
6 similar form. It doesn't have to be tiers. What I'm asking
7 the government, and I want you to obviously copy everybody on
8 it, is your view of the relative culpability and why for each
9 of the defendants in Cheedi, all right?

10 MS. FLETCHER: Yes. One point of clarification, your
11 Honor. Would the Court like the government to include all of
12 the defendants in the Cheedi case or only those who have
13 pleaded guilty and are about to be sentenced?

14 THE COURT: Aha. Good question.

15 MS. FLETCHER: As the Court might imagine, the
16 government's investigation of certain defendants is ongoing.

17 THE COURT: You can say that, but I would like to know
18 its current view of everyone, even those who are set for trial.
19 My concern is, again, is that the defendants received this. I
20 don't want it to be in any sense *ex parte*.

21 MS. FLETCHER: Understood.

22 THE COURT: My records show, this is the first
23 sentencing in Cheedi, correct?

24 MS. FLETCHER: That's right, your Honor.

25 THE COURT: Mr. Cohen, let's hear you. What do you

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1 want to tell me? I have read all of this information. I don't
2 think you've been before me before. Maybe you have been.

3 MR. COHEN: Judge, I have been in front of you for
4 four sentences in the last 30 years, two of which involved
5 deaths and one of which involved about 100 and some odd Hobbs
6 Act robberies. Actually, this is the first time I'm before you
7 in a case that does not involve violence, extreme violence.
8 And I think the first sentence, I figured out, was before 9/11,
9 sir, so it's been a long time, but here I am.

10 THE COURT: Forgive me for not remembering you. If
11 you are talking about 100 Hobbs Act robberies, it must have
12 been the robberies of the houses in northern New Jersey. Is
13 that what it was?

14 MR. COHEN: It was AUSA Jessica -- I'm trying to
15 remember her last name.

16 THE COURT: Ortiz.

17 MR. COHEN: Yes.

18 THE COURT: It was 400 household robberies in northern
19 New Jersey and the local authorities couldn't get to the bottom
20 of it so they brought in the feds, and it involved on Canal
21 Street the stolen goods were being brought and fenced and the
22 proceeds were then used to buy gold on 46th Street and it was
23 melted down. Is that the case?

24 MR. COHEN: I would say that my client was related to
25 that case. I'm familiar with that part of the case, but --

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1 Judge, if you'd like, in the late '90s, you sentenced a client
2 of mine whose 13-year-old nephew shot and killed his
3 12-year-old nephew by accidentally finding the gun in the
4 house, and that was a case that we handled, and I actually, the
5 day after 9/11, ran into my client after he was released from
6 custody, so I will never forget that case, sir, as long as I
7 live.

8 (Continued on next page)

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1 THE COURT: All right. Well, let's go on.

2 MR. COHEN: Let's start here, yes.

3 THE COURT: Let's go on to Cirilo.

4 MR. COHEN: Look, Judge --

5 THE COURT: The lead-in to that, sir, was I read all
6 of this information, and if you have the background with me,
7 you know I take it very seriously. I've read it all.

8 MR. COHEN: I know.

9 THE COURT: I thought about it. I have a view. What
10 do you want me to know?

11 MR. COHEN: Judge, I want you to know that if left to
12 her own devices, I'm not so certain that Ms. Cirilo would have
13 obstructed justice. There's no doubt --

14 THE COURT: It's easy to blame the husband.

15 MR. COHEN: Not blaming the husband. Not blaming the
16 husband. Here's what I'm blaming. This is a young woman who
17 sat during a raid in front of everyone and made her way over to
18 the agents. Not only did she make her way over to the agents
19 and speak to the agents, but she took the agent's contact
20 information. She had an intention that day of following up
21 with the agents. She made contact with the agents on a couple
22 of occasions, I think twice if I'm not mistaken, before,
23 before, the onslaught came of "You don't need to go to talk to
24 the agents. Why would you go talk to the agents? You're a
25 low-level nobody. They're not interested in low-level

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1 nobodies." And the pressure came from her supervisor, the one
2 she worked for, for a salary, your Honor, for \$30,000 in
3 approximately ten months that she was there. And the pressure
4 came as follows: It came as "You don't have to worry about
5 it." It came -- I'm sorry. This might be me.

6 THE COURT: It can only be you.

7 MR. COHEN: Oh, OK. I'm loud, so if you can hear me
8 without it, is that OK?

9 THE COURT: Yes.

10 MR. COHEN: All right. So my point, your Honor, is
11 that it came from, "Oh, you don't have to worry about it. I
12 spoke to my lawyer, and my lawyer says it's OK for everybody to
13 come back to work" and "You don't have to worry about your
14 computer and your cell phone which the agents took because,
15 ahh, let it go. I'm going to replace it for you."

16 Judge, it was a chorus, because you have to remember
17 that Mattie Cirilo answered an ad in Craigslist. That's how
18 she came to meet all of these people who have appeared in front
19 of you. She answered an ad years back for --

20 THE COURT: I thought her husband had also worked
21 there?

22 MR. COHEN: He did, but she didn't know him at the
23 time. She met her husband when she answered the ad.

24 THE COURT: I see.

25 MR. COHEN: What happens is she goes and answers an ad

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1 because she's a young kid out of high school. Her parents
2 tried to get her to go to college. She didn't want to go to
3 college. She signed up for cosmetology school.

4 THE COURT: I saw.

5 MR. COHEN: That didn't work out. She signed up for
6 another school. That didn't work out. She was delivering
7 pizzas. She was running around with three different jobs. And
8 what we can say is she was an immature 20-something-year-old
9 who didn't have any direction. She saw that she needed to
10 start to earn a few bucks. She was getting pressure at home.
11 She answered an ad, and she went to work in an office with good
12 intentions of having something on her résumé that she could
13 rely on, your Honor, and move forward in her life. And
14 unfortunately, she met people whose views about what they were
15 about to embark upon and what they had already been embarked
16 upon was, ahh, it doesn't matter what happens to other people
17 we're going to enrich ourselves.

18 THE COURT: So it doesn't -- in other words, she
19 didn't really try to prevent people from withdrawing and she
20 didn't really --

21 MR. COHEN: I didn't say that.

22 THE COURT: -- try to prevent chargebacks --

23 MR. COHEN: No.

24 THE COURT: -- and she didn't really delete the
25 information? Others made her do it, is that it?

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1 MR. COHEN: No, Judge, I didn't say that at all. In
2 fact, she's never said that, and I've never said that, sir. In
3 fact, all I'm saying to you is that at the point of entry into
4 this, she walked into a preexisting sewer, for lack of a better
5 way to describe it. She was not that girl. She met her
6 husband there. She met other people. They became friendly.
7 One thing leads to another. She's easily influenced at that
8 time in her life, and the job works for her, and she sits
9 there.

10 THE COURT: She knew what she was doing was wrong and
11 illegal, and she knew it when she was doing it. The former
12 phrase is from her allocution. My latter phrase is from her
13 statement here.

14 MR. COHEN: What I'm saying to your Honor is I'm
15 saying that when she first started, it was clerical, and then
16 her direct supervisor gave her a script. She knew it was
17 wrong. She's going to tell your Honor she knew it was wrong,
18 and she chose to do it anyway, and that's why she embarked upon
19 criminal activity. No issue.

20 Then later on, after she's given the script and, well,
21 it doesn't work, so she passes him on to the supervisor to try
22 to keep the fraud going, what happens is at a later point, your
23 Honor, it steps up a bit. She's assisting people in Utah with
24 the actual chargeback work, and there's no denying that. And,
25 Judge, it's important to note that despite the fact that she

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1 didn't make it to the agents because she was convinced that she
2 was a nobody and she was pressured and she agreed on her own to
3 wipe the data, but one thing you need to know, sir, I got a
4 call from Ms. Cirilo within a couple of days, I guess, after
5 she came out on bail. She came to my office, and she described
6 what went on with the agent. And I looked at her and I was
7 like, what the heck happened? How did that get derailed?

8 So, Judge, you know what we did? We sat down. We had
9 conversation after conversation in about two weeks of time, and
10 then she said -- and it didn't matter whether her husband was
11 in the case, it didn't matter who else was in the case -- she
12 says I'm going to do what I was going to do. And she sat down
13 in a room with the government, and she explained what she knew.
14 I can't remember any pushback from the government. And in
15 fact, Judge --

16 THE COURT: Why would they push back if she's telling
17 them what she did wrong?

18 MR. COHEN: Well, that was my sense, that she was
19 telling the truth, because I didn't see pushback, exactly.

20 So my point to you is she makes the statements, and
21 the government says to me -- look, it was no great surprise to
22 me, your Honor. I've been practicing 30 years. She didn't
23 know enough for substantial assistance stature. She didn't
24 know. She had direct supervisors. She saw what they did.
25 Yes, your Honor, she ignored what they did. Yes, your Honor,

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1 she helped them to do what they did, but remember, she didn't
2 share in those profits. She kept the job going, no doubt.

3 All the while, sir, she has her eye on a different
4 ball. All the while, she's looking to improve herself. She's
5 saving money, going to real estate school. And you know what,
6 Judge, honestly, she's been troubled with this. She wants
7 this. She knows that her real estate license is in jeopardy if
8 she ever wants to sit for the exam. But look what she did in
9 the last two weeks. In addition to trying to adopt a child, in
10 addition to her volunteer work on behalf of animals -- and,
11 Judge, none of this was done before -- excuse me, after the
12 case started. This was all done by Mattie Cirilo because she
13 cares about other beings. She cares about animals. She cares
14 about a child who got a bad break in life. She does what we
15 would want our daughters to do generally. And I respectfully
16 submit, your Honor, that these acts that she committed, while
17 they are terribly serious and they helped prolong and deepen a
18 horrific fraud, your Honor, they shouldn't define her because
19 she's --

20 THE COURT: I don't think it defines her. The
21 question is what's an appropriate punishment?

22 MR. COHEN: Well, I'm going to tell you what I think.

23 THE COURT: Well, you told me in your letter. I see
24 it.

25 MR. COHEN: Well, I'm going to tell you more. I think

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1 after 36 years of working in the criminal justice system,
2 Judge, I think that she has a moral compass to avoid
3 recidivism. I think --

4 THE COURT: I'm not really concerned about her
5 recidivism. I am concerned about general deterrence, and I'm
6 concerned about appropriate punishment.

7 MR. COHEN: OK.

8 THE COURT: She's not going to recidivate.

9 MR. COHEN: Thank you. I appreciate you saying that
10 and realizing that.

11 I'd like to say this about that issue: Judge, I came
12 out of the state system. I was an economic crime prosecutor in
13 the Bronx D.A.'s office, and we used to -- we had a different
14 system. Our system of restitution in the state when I started
15 was different. A defendant was responsible for --

16 THE COURT: I'm going to impose restitution on her on
17 a joint and several basis. She'll never be able to make it up
18 unless she becomes a hedge fund manager.

19 MR. COHEN: But the point I'm making is that
20 punishment -- and it's right and it's the law and I'm not
21 quibbling with it, but I'm suggesting to your Honor that it is
22 so much more severe and so much more debilitating and so much
23 more of a burden that she's going to carry for the rest of her
24 life, maybe 40 more years, and honestly I really -- I urge you
25 to think about the fact that if there was no pressure around

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1 her, she would have gone. She would have said exactly what she
2 said to the government. She would have said what she said to
3 the government in a negotiation letter. She would have said
4 what she said to the government after her change of plea
5 hearing when they called me and they said: Does Ms. Cirilo
6 know anything about this? Judge, if it wasn't for the
7 pressure, she would have gone and she'd have accepted the
8 responsibility; she'd have admitted what she did. And frankly
9 speaking, Judge, I really believe that she has learned her
10 lesson, and it will be a recurring lesson every time she has to
11 pay whatever amount it is in restitution, every time that she
12 has to look at her credit report.

13 THE COURT: You have not said a word in response to my
14 general deterrence concern.

15 MR. COHEN: I'm going to get there.

16 THE COURT: Go, get there.

17 MR. COHEN: And there I am. Judge, I respectfully
18 believe that if you polled a group of people and you said:
19 Listen, you can spend six months in jail or you could pay back
20 \$250,000 on probation, I will tell you, Judge, from my own
21 personal experience, and I'll explain why, there would be a
22 whole heck of a lot of people who would rather go to jail. And
23 I'll say this: I know it because in the state system, when I
24 defend people and I say you could have a city year with no
25 supervision or you could have five years of probation, people

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1 take the city year. To me it doesn't make sense. It's the
2 same thing here.

3 I submit, respectfully, by the time she is done
4 financially here -- I mean, yes, you're right, her earning
5 capacity isn't going to be enormous. How much of a
6 percentage --

7 THE COURT: The real estate assistant job, I think,
8 was 35 --

9 MR. COHEN: 35,000.

10 THE COURT: -- 34,000.

11 MR. COHEN: And don't forget, Judge, her husband's
12 going to jail. She's got two kids. I mean, she has ability.
13 She's willing to improve herself. She has shown that. But I
14 think, most importantly, Judge, look into her heart. She takes
15 stray animals. She did that before she knew that there was a
16 Judge Stein. I've spent a lot of time with her, sir. I've
17 talked to her parents. I've talked to her sister. I think
18 this was so out of character, sir. I think that the general
19 deterrence that you would send a message that even if you make
20 a paltry amount compared to the big fraudsters, even if your
21 role is limited, even if your participation temporally is
22 limited you are going to be jointly and severally responsible
23 for an incredible amount of money, maybe more money than she's
24 capable of earning in her lifetime. That is a huge punishment,
25 your Honor. That is such deterrence. You're taking people,

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1 you're saying your credit is garbage and you are going to be on
2 the hook for what everybody else gave. That's pretty good
3 deterrence, I respectfully submit.

4 THE COURT: I'm not sure I've seen any study that
5 indicates financial responsibilities are a function -- that
6 deterrence is a function of financial responsibilities.

7 MR. COHEN: I would respectfully submit that it is
8 disproportional for somebody to commit a crime and make 30,000
9 and be responsible for paying hundreds of thousands. And I
10 respectfully believe -- maybe I'm wrong, and I don't have an
11 empirical study. I'm not trying to pull the wool over your
12 Honor's eyes. I'm just trying to pull from my own defense
13 experience, what I see going on when people choose between
14 probation and jail, and to me it's the same thing. It's the
15 same thing. This is a severe punishment as is, as I propose
16 it. And, Judge, if you think her liberty needs to be taken
17 away from her, I've suggested to keep her at home because she's
18 at a crucial point with the children. Her husband's child has
19 issues.

20 THE COURT: I saw.

21 MR. COHEN: And she's doing the right thing.

22 THE COURT: I saw.

23 MR. COHEN: Sir, you know, I know I've stood in this
24 courthouse week after week and heard federal judges, retired
25 and present, say your client should have thought about the kids

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1 before she did what she did, and I have no quibble with that.
2 But I think the level of care that she renders, I think the
3 responsibility that she takes, I think her selflessness in
4 adopting these children, her hobby in caring for animals shows
5 that she needs to be --

6 THE COURT: I understand the position. Is there
7 anything else you wanted to say?

8 MR. COHEN: No, sir.

9 THE COURT: All right. Thank you.

10 MR. COHEN: Thank you.

11 THE COURT: Ms. Cirilo, you have the opportunity to
12 address me. You don't have to say anything, but before you do
13 that, let me hear from the government so you hear what both
14 sides are saying, and then I'll listen to anything you want to
15 say. I do want to inform you that anything you say can be used
16 against you and that you have no obligation whatsoever to speak
17 to me, but if you want to say anything to me, obviously, I'm
18 here to listen.

19 Ms. Fletcher, speak to me about relative culpability,
20 about role in the offense here. And I really do not agree with
21 the acceptance of responsibility points that apparently the
22 government felt was appropriate, at least in the plea
23 agreement. Seems to me this is not an extraordinary case from
24 the standpoint of counteracting the inability -- well, not
25 inability. The guidelines are set up so that if you have

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1 obstruction points, you don't get acceptance of responsibility
2 points unless it's an extraordinary case. I don't see this as
3 an extraordinary case, and therefore, unless somebody's going
4 to talk me out of it, I'm not inclined to adopt the guideline
5 calculation entered into by the government and the defense.
6 But rather, I believe the probation department's calculation is
7 correct. Speak to me.

8 MS. FLETCHER: Yes, your Honor. With respect to the
9 guidelines, our submission is -- our submission in the plea
10 agreement set forth the government's position. To the extent
11 the Court disagrees, of course, that's the Court's prerogative.

12 Your Honor, with respect to this defendant's relative
13 culpability, the government's position is that the guidelines,
14 regardless of whether it's 41 to 51 or 57 to 71 months, the
15 guidelines would call for a sentence that is greater than
16 necessary for this defendant.

17 THE COURT: I agree.

18 MS. FLETCHER: And the reason for that is, in part,
19 because of her relative culpability. If the Court looks at I
20 think the now 12 defendants charged in the Cheedie case, this
21 defendant is pretty squarely defendant No. 12 in the ranking
22 order with respect to their role in committing the underlying
23 fraud. And there are a few reasons for that and a few
24 arguments that Mr. Cohen has made that I think the government
25 should correct, at least a little bit.

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1 Mr. Cohen focused a lot on how Ms. Cirilo came to be
2 involved in Bis Op, and he's right, she did answer a Craigslist
3 ad. She became an appointment-setter and a compliance person
4 for Olive Branch Marketing. She had a largely administrative
5 role where, at least in the government's view, she did not have
6 full appreciation for the fraudulent scheme. She met her
7 husband, her now husband and codefendant, Derrek Larkin, there.
8 But at some point shortly after her employment there, a number
9 of people with whom she worked at Olive Branch were arrested,
10 including Bill Sinclair and Arash Ketabchi and others. And
11 that is a fact that the Court will hear from the government in
12 a number of these sentencings because, unlike many of the
13 defendants in the Ketabchi case, the defendants in the Cheedie
14 case knew about the Ketabchi case. They knew that the
15 government had prosecuted a number of individuals involved in
16 this scheme and had convicted those individuals of committing a
17 number of crimes, either through guilty pleas or through -- or
18 at trial.

19 So the defendant, even though she came to this scheme
20 maybe naive to what the broader scheme was, she quickly learned
21 that people around her were being charged with crimes for their
22 participation in this scheme. Her home, the home she shared
23 with her husband, was searched in 2017. Ultimately, she was
24 not charged in 2017, but those were certainly red flags that
25 should have made her and, in the government's view, did make

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1 her keenly aware that these sales floors were perpetrating a
2 fraud. So rather than exit completely from this conspiracy,
3 choose not to have anything to do with it, encourage her
4 husband not to have anything to do with it, she and Derrek
5 Larkin took a job with Joseph Ciaccio and Joseph Minetto who
6 were operating a sales floor along with Ryan Hult that was
7 essentially doing exactly what Olive Branch Marketing did.

8 And in that role, in the role that Ms. Cirilo took on
9 that floor, she became aware from her firsthand experience and
10 from her job on that floor that not only had this other
11 employer that she worked for been involved in fraud but so was
12 the current employer. And, again, rather than exit at that
13 point, she furthered the fraud. She moved from her
14 administrative role to a role fighting chargebacks. She wasn't
15 in the role for very long, but it was that conduct, it was
16 that -- her participation during that time that landed her
17 within the government's crosshairs as the investigation
18 progressed.

19 Then, of course, there's the obstruction. And
20 obstruction is, I would suspect, probably something she views
21 as her worst mistake in life but is extremely aggravating
22 conduct and is conduct that even in the government's plea
23 agreement she gets obstruction offense level increases for.
24 Whether she did it -- whether it was her own idea or whether
25 she was acting at the direction of others, there is no dispute

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1 that she knew that Homeland Security Investigations had
2 searched her place of employment, the second place where she
3 was located that had been searched by law enforcement. And
4 after the search, she on her own volition chose to remotely
5 delete evidence from her phone. I can't say what was going on
6 in her head when she did that or what she intended to do
7 vis-a-vis talking to law enforcement, but she certainly wiped
8 the data from her phone. The government obtained a recording
9 from a cooperating witness in which she and her husband
10 described for the cooperating witness how he too can wipe data
11 from his phone so he too can avoid getting caught.

12 So, yes, she starts in a relatively low-level position
13 where she doesn't get it, but over the course of now two and a
14 half years, between the time that her prior employer was
15 arrested, by the time the search happens, she's aware that this
16 is a fraudulent scheme, and she chose to destroy evidence of
17 the scheme. So all of those factors are why the government
18 submits that here, as the Court has done for every other
19 defendant in this and the related case, a sentence of
20 imprisonment is appropriate to serve the aims of general
21 deterrence. Put another way, it cannot be that someone can
22 knowingly be participating in a fraudulent scheme that
23 victimizes the people that this scheme victimizes, delete
24 evidence of the scheme, and be spared prison.

25 So now that is all to say, and I think I started by

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1 saying this, the government does not argue that this defendant
2 should go to prison for four years or five years, or whatever
3 term is contemplated by the guidelines, and would suggest to
4 your Honor that some defendants who are comparable to this
5 defendant in terms of relative culpability are Thomas O'Reilly
6 who, I believe, is referenced in our submission. The Court
7 will recall Mr. O'Reilly was a salesperson on the Carlisle
8 Vanguard floor whose role was sort of -- I would say whose role
9 in the underlying fraud scheme was comparable to this
10 defendant's and who ultimately actually pleaded guilty to
11 obstruction related to his destruction of evidence. The Court
12 sentenced him to 366 days.

13 The arguments that the defendant's counsel made
14 related to her childcare responsibilities and her family
15 situation reminded the government during his comments of Ray
16 Quiles who, the Court will recall, was also sentenced to 366
17 days' imprisonment. And so without suggesting that that's
18 necessarily the appropriate sentence here, because the
19 government doesn't have a specific sentencing recommendation
20 for the Court, the government suggests that these are
21 defendants who, in the government's view, having looked at all
22 of the defendants in this case and the related case, are
23 comparable from a relative culpability perspective.

24 So I hope that's answering the Court's question. If
25 the Court has other questions, the government is happy to

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1 address them. Otherwise, we'll rest on our submission.

2 THE COURT: All right. Thank you.

3 Ms. Cirilo, what would you like to tell me?

4 THE DEFENDANT: Good afternoon.

5 THE COURT: Why don't you do this, Ms. Cirilo: If you
6 go into that booth that has the HEPA filter in it, you can take
7 your mask off.

8 THE DEFENDANT: Good afternoon, your Honor. Thank you
9 for hearing me. I really have been waiting to talk to you.
10 I'm sorry, I just never imagined I would be here. But I just
11 wanted to answer your question because you'd asked me a
12 question at my plea hearing. You asked me, why did I do this?
13 So I just wanted to talk and explain just me.

14 I'm 30 years old, and I have two kids. I was a
15 stay-at-home mom for most of the last five years. For the past
16 five years, I've been a stay-at-home mom. I just, as you saw,
17 got hired -- actually, yesterday was my first day at my job,
18 which I have been -- I really wanted to be a real estate agent.
19 I actually went and passed the course. I even passed the state
20 exam, but I was denied my license because of my charges. So
21 I'm just -- I was really excited about this job because I can
22 still have a career in the industry, even though I can't have
23 my license.

24 So I know that Mark kind of explained a little bit
25 that I just was kind of young. The first company -- my first

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1 job, my first full-time job ever was the company where I worked
2 and met some of my coconspirators. And that was a different
3 company than these companies, but I was there for a year, and
4 then I followed some of my coworkers to the second company.

5 Very shortly after, I had my son in 2016, and I
6 stopped working. I stayed home for two years to raise him and
7 my stepson who I consider to be my own son. And how I got in
8 here is in 2019, I really wanted to enroll my son into day care
9 because I just thought it was important, and I wanted him to be
10 socializing and things like that. So we just could not afford
11 that at the time with one income. So I was looking for work,
12 and my supervisor at this company -- well, I knew him from my
13 first ever full-time job. That's where I met him, and he
14 called me -- well, he offered me to work as his secretary,
15 which is how I became at this company. And I was to just be
16 clerical, administrative, answer the phones, and things like
17 that. But I was given a full speech by at least three of my
18 managers when I got there that because they did know about this
19 other case and --

20 THE COURT: You're talking about Olive Branch?

21 THE DEFENDANT: Yeah. And I was told this is such a
22 great program. It's a different program. The person that
23 designed the program even talked to me and said that people are
24 successful. They just have to do exactly this. That's where
25 my script and things came into the picture, but, obviously, I'm

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1 not saying that I never -- I found out that this wasn't right
2 and they weren't doing right by these people, but I just felt
3 like it was none of my business. It was -- it was convenient,
4 and I could work from home whenever I want. It was an easy
5 job.

6 THE COURT: And that was a mistake.

7 THE DEFENDANT: Yeah. So it was a huge mistake, and
8 then I obviously realized, especially when Detective Bastos
9 came to the office, that this was just absolutely, absolutely
10 horrible. And so I called him -- I texted with him a bunch --
11 well, over the course of a couple of weeks, the detective and I
12 made an appointment to come to his office even, and I wanted to
13 show him my job and I was also interested in getting my things
14 back, which he told me I could have them back. But less than a
15 week later, my supervisor who brought me in called us up and
16 said what my attorney said, that the lawyer said it was OK.
17 Everything checked out. That it's fine. We can go back to
18 work. I said, "I still have to go to the city and get my
19 things back," and he said, "No, I'm going to buy you new
20 things. Don't worry. Don't waste your time." And that was
21 the biggest mistake, I think, because I wish I would have went
22 and spoke with him, because I respect -- my dad's here, and my
23 dad always taught me to respect the law, the system.

24 THE COURT: But if you had done that, you would not
25 have gone to work with this company because you saw Olive

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1 Branch was a fraudulent and criminal enterprise.

2 THE DEFENDANT: Yeah, I did. I ignored my morals, and
3 I was not raised to be there like this.

4 So after that I did go back there, which was a huge
5 mistake, and I did not -- I didn't speak to him. I never went
6 to go speak to him. I am sorry. I went back there, and I
7 didn't want to be there. I was there, though, and that was
8 just the worst thing I could have ever done. But I just
9 started researching. I told them I no longer wanted to work in
10 the office, and they let me work from home. So I said fine.
11 Then I found my real estate school, and I started that process.
12 And actually, the morning that I was arrested was the day I was
13 meant to take my state exam. So I never entered -- eventually
14 I went back, but they denied my license because of the case.

15 So I just learned a lot. Like I said, this is not me
16 at all. I would never want to hurt anybody. I don't, that's
17 not who I am. I am sorry to all of these people and their
18 families and just anybody that was hurt. If I could do
19 anything to fix or make it go away, I would do it. There's
20 just nothing I can do. So I just have to accept and just live
21 with it and do better, which is what I intend to do. I will
22 never, ever -- I know you probably -- I would never do anything
23 like this again, but I want to raise my kids to be better than
24 I was here. And moving forward in the future, I plan to do
25 that and raise my kids right and just do my animal rescues and

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1 pursue some career in real estate, which I hope may be an
2 administrative career since I can't have my license. I would
3 like to right my wrongs, and I accept everything I did, and I
4 accept my punishment too.

5 Thank you.

6 THE COURT: All right. Thank you.

7 MS. FLETCHER: Judge, I'm sorry, I know that my time
8 to speak has ended, but can I just -- I feel like I should say
9 one thing --

10 THE COURT: Go ahead.

11 MS. FLETCHER: -- that I didn't when I spoke before.
12 I think when Mr. Cohen was speaking, I think I heard your Honor
13 say it's easy to blame the husband. And Mark, Mr. Cohen,
14 responded, to his credit, and I think probably because his
15 client wouldn't want him to blame the husband, that he was not
16 blaming the husband. But in the government's view, Derrek
17 Larkin is significantly more culpable in this scheme than
18 Ms. Cirilo --

19 THE COURT: I realize that.

20 MS. FLETCHER: -- and is very likely blameworthy for
21 her entree into this criminal conduct. I didn't think that was
22 lost on the Court, but I just wanted to say it to be sure that
23 the Court understood that.

24 THE COURT: All right. I'm going to take a few
25 moments here to look over my notes.

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1 What's the restitution the government is seeking and
2 what's the position of the defense?

3 MS. FLETCHER: Your Honor, the government would
4 request a slightly longer period of time to provide the Court
5 with a restitution sum and schedule, and that's because I
6 suspect that schedule and sum will be used for a number of the
7 defendants in this case. And we'd like to, if we can --

8 THE COURT: Does the statute give you 60 or 90 days?

9 MS. FLETCHER: Ninety days, your Honor.

10 THE COURT: Is that what you're seeking?

11 MS. FLETCHER: Please, your Honor.

12 And with respect to forfeiture, which I expect might
13 be the Court's next question, the parties stipulated in the
14 plea agreement that the defendant should forfeit \$30,000. So
15 the government would request the Court impose that forfeiture
16 amount today as part of her sentence.

17 THE COURT: Do you have a proposed order?

18 MS. FLETCHER: I can --

19 THE COURT: Preliminary order?

20 MS. FLETCHER: I can submit one later today or --

21 THE COURT: Please do so.

22 MS. FLETCHER: -- later this week if the Court would
23 allow.

24 THE COURT: Yes.

25 MS. FLETCHER: But I understand Mr. Cohen consents to

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1 that amount, as he did in the plea agreement.

2 THE COURT: Yes, send me a proposed preliminary order
3 of forfeiture which, if I remember correctly, becomes final
4 upon its entry, if I'm not mistaken. Send it to me by --
5 today's Tuesday -- by the end of the day on Thursday.

6 MS. FLETCHER: We will. Thank you.

7 THE COURT: Is the proposed restitution joint and
8 several with the Cheedie codefendants and Ketabchi codefendants
9 or just Cheedie? What's the proposal?

10 MS. FLETCHER: Your Honor, I expect the way we will
11 work it out is the defendants in the Cheedie case who were part
12 of the Corporate Development Center Alliance sales floor will
13 have a one forfeiture sum -- I'm sorry, one restitution sum
14 derived from -- related to the victims of those floors, and the
15 other defendants in the Cheedie case will have a different
16 number, and that number and the schedule of victims is separate
17 and in addition to the various schedules in the Ketabchi case.

18 THE COURT: But the first grouping is not, is that
19 what you're saying? You talked about a sales floor. What was
20 the sales floor?

21 MS. FLETCHER: Ms. Cirilo was employed by Corporate
22 Development Center and Alliance Education. I expect the
23 restitution scheduled for her will include a schedule of
24 victims and a restitution sum that will be joint and several
25 with Joseph Ciaccio, Joseph Minetto, Joseph Depaola, and Derrek

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1 Larkin. Those are the codefendants in the Cheedie case who
2 worked on that sales floor. But to the extent Cameron
3 Brewster, for example, is convicted and sentenced, he operated
4 a different sales floor, and so I expect his schedule of
5 victims will be different.

6 THE COURT: All right. It will be a few moments.

7 Ms. Cirilo, I'm troubled by the fact that you knew
8 about this, the wrongdoing here, because you had been involved
9 in Olive Branch. And from what I know of Olive Branch, I don't
10 know everything, but I presided over trial concerning that
11 operation, it's pretty clear that it was fraudulent. And
12 nonetheless when you needed money and wanted to have an income
13 to support your family, along with your husband, you joined up
14 with an operation that, whether you knew about it in the
15 beginning or not -- and you probably should have known about it
16 in the beginning -- whether you did or not, you went to work
17 with them and you continued with them when you admittedly knew
18 that it was an illegal operation. I'm very concern about that,
19 I really am. You have to start making some clearer eyed
20 decisions about what you're doing and why. Then there's no way
21 you didn't know that wiping out your phones was an effort to
22 obstruct justice. I'm very troubled by that.

23 By the same token, I don't think you're going to do
24 this again. I agree with your lawyer on that. I certainly
25 hope you're more aware of those around you committing criminal

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1 wrongdoing. I don't think there's anything really to be gained
2 by taking you away from your children. I am concerned about
3 sending a message, which is general deterrence, and apparently
4 the general deterrence and my efforts at general deterrence in
5 the Ketabchi case didn't work.

6 I'm going to adopt the recommendation of the defense.
7 I'm not going to send you to prison. I certainly considered a
8 community confinement center, but what I'm going to do is I'm
9 going to sentence you to time served, three years' supervised
10 release, with the special condition of one year of home
11 detention. You'll be allowed to work. I want you to be able
12 to work, but you are going to be detained to your home except
13 for work and other preapproved activities by your probation
14 department -- by your probation officer. I'm going to give the
15 government 90 days to submit a proposed restitution order, and
16 I'm going to impose the \$30,000 forfeiture.

17 You are going to have a significant financial
18 responsibility in the future. I think the important thing from
19 your standpoint is I'm saving you from prison. I don't know if
20 that's the best thing to do because you seem to be pretty
21 easily manipulated by others, but at this point in time, I'm
22 giving you the benefit of the doubt. If you violate any term
23 or condition of your supervised release, though, I certainly
24 will remember this proceeding and how I gave you the benefit of
25 the doubt. I won't be inclined to do that again.

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1 That's my intention. Before I formally impose
2 sentence, government, is there any formal objection you wish to
3 lodge?

4 MS. FLETCHER: No, your Honor.

5 THE COURT: Defense?

6 MR. COHEN: No, sir.

7 THE COURT: All right. Ms. Cirilo, please stand.

8 I do find that the total offense level is 25, the
9 criminal history category is I, the guideline range is 57 to 71
10 months. I am adopting the guideline range set forth by the
11 probation department for the reasons I said. I'm not adopting
12 the agreement in the plea agreement because I do believe this
13 is not an extraordinary case, and given the fact that the facts
14 indicate Ms. Cirilo did obstruct justice, I don't think she's
15 entitled to the acceptance of responsibility points. The
16 result is an offense level of 25, a criminal history category
17 of I.

18 Pursuant to the Sentencing Reform Act of 1984, it is
19 the judgment of this Court that the defendant, Mattie Cirilo,
20 is sentenced to three years' supervised release with the
21 conditions recommended by the probation department, namely, the
22 following mandatory conditions:

23 One, she shall not commit another federal, state, or
24 local crime;

25 Two, she shall not illegally possess a controlled

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1 substance;

2 Three, she shall not possess a firearm or dangerous
3 weapon or destructive device;

4 Four, she shall refrain from any unlawful use of a
5 controlled substance.

6 I'm waiving the drug testing requirement in this case.

7 She shall cooperate in the collection of DNA as
8 directed by the probation officer.

9 She also shall comply with standard conditions one
10 through 12 plus the following special conditions:

11 One year of the three years' supervised release will
12 be on home detention where she can -- she's restricted to her
13 residence at all times except for employment, education, and
14 other activities preapproved by her probation officer.

15 She shall submit her person, property, residence,
16 vehicle, papers, computer, other electronic communications to
17 search by a probation officer and, if needed, any law
18 enforcement officer when there's reasonable suspicion
19 concerning a violation of a condition of supervised release.
20 You must notify the other individuals in your household of this
21 condition, including your husband.

22 You must provide the probation officer with access to
23 all requested financial information. You must not incur new
24 credit charges or open additional lines of credit without the
25 pre-approval of your probation officer unless you are in

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1 compliance with the installment payment schedule that I will
2 enter if I approve a restitution order here.

3 You will be supervised by your district of residence.

4 I'm not imposing a fine because I find that the
5 defendant lacks the ability to pay a fine after taking into
6 account the presentence report, her family responsibilities,
7 and the restitution order I am going to enter.

8 I will sign a \$30,000 forfeiture order when presented
9 to me by the government within the next few days.

10 I hereby order Ms. Cirilo to pay to the United States
11 a special assessment of \$100, which is due immediately.

12 You will pay interest on all restitution amounts of
13 more than \$2,500.

14 This is a substantial variance. Mr. Cohen will be
15 able to explain that to you. Among the reasons for the
16 variance are the defendant's age, the fact that she has two
17 young children, she was attempting to collaborate with the
18 government, and as the government says, she is the least
19 culpable of the people in this particular indictment.

20 I urge you, Ms. Cirilo, to take advantage of what the
21 Court is doing for you today by not incarcerating you as an
22 issue of general deterrence.

23 THE DEFENDANT: Thank you, your Honor.

24 THE COURT: Government, are you aware of any legal
25 reason why the sentence should not be imposed as I have stated

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1 it?

2 MS. FLETCHER: No, your Honor.

3 THE COURT: Defense?

4 MR. COHEN: No, sir.

5 THE COURT: I hereby order the sentence to be imposed
6 as I have stated it.

7 Ms. Cirilo, you have the right to appeal the sentence
8 I imposed on you, and if you cannot pay the cost of appeal, you
9 have the right to apply for leave to appeal *in forma pauperis*.

10 What's the limited waiver in the plea agreement,
11 government?

12 MS. FLETCHER: I'm sorry?

13 THE COURT: Is there a limited waiver of appeal rights
14 in the plea agreement?

15 MR. COHEN: Guidelines down, your Honor.

16 THE COURT: Pardon me?

17 MR. COHEN: Guidelines down.

18 THE COURT: Well, but the question was -- it was 22
19 and down?

20 MR. COHEN: Right. So we had 41 to 51, so below 51.

21 THE COURT: That's what I was asking.

22 MR. COHEN: Right.

23 THE COURT: Does the government agree with that?

24 MS. FLETCHER: Yes, your Honor.

25 THE COURT: All right. I do wish to inform you that

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1 in your plea agreement you agreed to waive the right to appeal
2 the sentence and you agreed to waive the right to collaterally
3 attack the sentence if I sentenced you to 51 months or fewer
4 months in prison, and I've done that. I haven't sentenced you
5 to prison at all. If you request, the clerk of court will
6 prepare and file a notice of appeal on your behalf immediately.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Government, are there open counts here?

10 MS. FLETCHER: Yes. The government moves to dismiss
11 open counts at this time.

12 THE COURT: All right. Granted.

13 I don't know what I can tell you, Ms. Cirilo, except
14 you need to thank your lucky stars here and you need to comport
15 yourself in the future in a very law-abiding way. And I may
16 also suggest, based on what I've heard today, that you listen
17 to your parents in the future.

18 All right. Good luck to you.

19 THE DEFENDANT: Thank you, your Honor.

20 MR. COHEN: Judge, thank you very much.

21 (Adjourned)
22
23
24
25